

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JUAN CARLOS GARCIA,

Plaintiff,

vs.

GEORGE ASSAD,

Defendant.

Case No. 2:09-cv-00080-RCJ-GWF

**FINDINGS AND
RECOMMENDATIONS**

On January 8, 2009, Plaintiff filed his Motion for Protective Order (#1). On January 16, 2009, the Court issued Order (#2), which denied Plaintiff's Motion for Protective Order (#1) without prejudice, and directed Plaintiff to submit a completed application to proceed *in forma pauperis* by **February 15, 2009**. Plaintiff was advised that failure to comply with Order (#2) would result in the recommendation that his action be dismissed. To date, Plaintiff has not complied with Court Order (#2) within the allotted time period, and the time allowed has expired. Accordingly,


IT IS HEREBY RECOMMENDED that this action should be **dismissed** without prejudice based on Plaintiff's failure to submit a completed application and affidavit in support of a request to proceed *in forma pauperis*.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the

1 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
2 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
3 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

4 DATED this 20th day of February, 2009.

5
6 
7 **GEORGE FOLEY, JR.**
8 **UNITED STATES MAGISTRATE JUDGE**
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28